



CARFAC
CANADIAN ARTISTS' REPRESENTATION
LE FRONT DES ARTISTES CANADIENS

August 4, 2016

Standing Committee on Finance
House of Commons
Ottawa, Ontario
K1A 0A6

Re: Submission to FINA on the 2017 federal budget- the Artists' Resale Right

To the members of the Standing Committee on Finance,

I am writing today with respect to artists' rights in Canada and the preparation of the 2017 federal budget. The Canadian Artists' Representation/Le Front des artistes canadiens (CARFAC) urges you to enshrine the Artists' Resale Right/Droit de Suite (ARR) in Canada and to make the necessary subsequent amendments to the Federal Income Tax Act and the Copyright Act.

Who We Are

Canadian Artists' Representation/Le Front des artistes canadiens (CARFAC) is incorporated federally as a non-profit corporation that is the national voice of Canada's professional visual artists. As a non-profit association and a National Art Service Organization, our mandate is to promote the visual arts in Canada, to promote a socio-economic climate that is conducive to the production of visual arts in Canada, and to conduct research and engage in public education for these purposes.

CARFAC was established by artists in 1968 and has been recognized by the federal Status of the Artist legislation. CARFAC is guided by an active Board, elected by the membership.

We believe that artists, like professionals in other fields, should be paid for their work and share equitably in profits from their work. As the national voice of Canada's professional visual artists, CARFAC defends artists' economic and legal rights and educates the public on fair

dealing with artists. In doing so, CARFAC promotes a socio-economic climate conducive to the production of visual arts. CARFAC engages actively in advocacy, lobbying, research and public education on behalf of artists in Canada.

What is the ARR?

The Artists' Resale Right entitles visual artists to receive payment each time their work is resold publicly through an auction house or a commercial gallery. We recommend that 5% of all future public sales of artwork be paid back to the artist. The ARR exists in more than **93 other countries** in the world including all countries in the European Union, Australia and the United Kingdom. The fact that Canada does not recognize the Resale Right is considered a trade barrier for Canada on the international art market. The EU has asked Canada to implement an ARR in our trade discussions.

This royalty is based entirely on commercial sales of an artist's work and will cost the government nothing: it is a royalty, not a tax, and requires no ongoing public funding once it is legislated. In fact, **ARR royalties would lead to increased funds for the Federal Government.** The sale of art is considered capital gains for tax purposes, and is therefore only 50% taxable. Royalties are counted as income and are therefore 100% taxable.

the **ARR Royalty will actually accrue more revenue for the government**, since royalties are counted as income and are therefore 100% taxable.

ARR is a Poverty Issue

"The ARR does not cost the government anything. It does, however, put money into the pockets of citizens who badly need it."

-Marcia Lea, Acting Executive Director for CARFAC National

The arts and culture sector contributed **\$48 Billion to Canada's gross domestic product** in 2010. It employed more than 650,000 workers in 2010. These numbers are expected to be larger today. In contrast, the 2010 average income for Canadian artists across all sectors is just \$32,770- 32% less than the average total individual. **The average income for visual artists was lower than other artistic disciplines at \$24,672.** Average incomes for racialized minorities, and Indigenous peoples in all arts sectors were even lower. By contributing to visual artists' incomes, the ARR will work to combat the poverty that afflicts professional visual artists.

It is common for art to be resold at much higher prices, as the reputation of the artist grows. This reputation is almost always built upon the labour and output contributed by the artists throughout their careers. The Canadian art market is thriving. Canadian auctions continue to break new records, yet artists do not receive any profits from secondary markets.

In a 2013 Review of the Resale Royalty Scheme from Australia, the government found that the cumulative total of reported royalties generated in less than three years was **\$1,567,042, paid to 6,801 individual artists**. The vast majority of the sales were for art priced between \$2,500 and \$10,000, which reflects the price that most living artists' work sells for. These artists, who have dedicated their lives to the creation and promotion of arts and culture, consider it their right to collect royalties on the sale of their work, as do creators from other sectors such as music and writing where royalties are recognized by Canadian law.

ARR is an Indigenous Issue

"Inuit artists have brought their vision of the world to an international audience, and built an economic sector that creates jobs and contributes tens of millions of dollars every year to Nunavut's economy. Today, we add our voice to support Artist's Resale Rights and encourage Canada to address this critical piece of legislation."

– Peter Taptuna, Minister of Economic Development & Transportation, Government of Nunavut

One of the most compelling statistics to come from Australia since it implemented The Artists' Resale right in June 2010 shows that over 65% of the artists receiving royalties are Aboriginal or Torres Strait Islander artists and that they have received 38% of the total royalties generated.

Among those artists most exploited by commercial resale markets are Canada's First Nations, Metis and Inuit artists. Indigenous art is highly valued on international art markets, yet many of those creating these artworks have no access to the mainstream art world due to intersecting discriminatory barriers including poverty, geographic remoteness and a lack of awareness regarding their rights as artists. Middlemen art dealers will come to First Nations and Inuit communities in order to buy art and immediately resell it at three or four times what they originally paid for it. Meanwhile the artists themselves sees none of that profit.

It is CARFAC's position that implementing and spreading awareness of the Artists' Resale Right will greatly benefit Indigenous artists, their livelihoods and their ability to promote their heritage and culture within their own communities and across Canada. Furthermore, we believe that the federal government should take all possible steps towards complying with the recommendations of the Truth and Reconciliation Commission, and the United Nations Declaration of Indigenous Peoples' Rights, specifically the sections of both documents that discuss the preservation and promotion of Indigenous culture, art and language.

CARFAC is eager to use the implementation of the ARR in Canada as a platform from which we can launch a comprehensive awareness campaign of artists' rights in collaboration with Inuit, Metis and First Nations arts advocates.

ARR is a Retirement Issue

"This is a wonderful way for artists to benefit from their hard work and dedication to, in many cases, their life's work. In my case it was not until later in life that I have achieved a semblance of success, and at 92 yrs of age and surviving on a small pension and returns on dwindling investments it would definitely have been helpful to have had a small stream of extra income."

-Daphne Odjig, Senior Artist from the Odawa and Potawatomi Nations

Recent research shows that senior visual artists (over 65) have median arts earnings of about \$5,000, which is the lowest of any artistic discipline, and that 32% of elder artists are at a high financial risk. Artists are almost always self-employed, and living below the poverty line throughout their careers. Therefore, it is difficult for them to save for retirement or collect pensions.

As the members of this committee know, Canada has an aging population. For the first time ever, there are now more people in Canada aged 65 and over than there are under age 15. Research from countries where ARR has been adopted shows that much of the royalties collected go to senior artists, a fact which makes sense when one considers that it can take a lifetime for artists to achieve notoriety. **ARR will work to augment retirement incomes for senior artists.**

The case of Daphne Odjig, quoted above, is a perfect example. Daphne did not achieve the fame she now enjoys until very late in life. Now that she is in her 90's her work is being resold rapidly and yet she doesn't benefit at all. In 2012 alone, 12 of her artworks were sold at auction. Had the ARR been in place, she would have earned \$7,218 in royalties that year.

It is often taken for granted that artists thrive once they become established, but CARFAC has found that even Governor General Award winning artists find it difficult, if not impossible, to make a living from their art. The implementation of an ARR in Canada would provide greater financial independence for our senior artists, many of whom are in need. Mary Pratt is one of Canada's foremost living painters and today she struggles to support herself throughout her old age. She says:

"I have seen my work escalate in value by quite a big percentage. A painting done in 1966 fetched \$40 and is valued now at \$20,000. As we get older it gets harder and harder to find the energy to produce enough work to maintain a decent living."

Conclusion

CARFAC is requesting to be included as a witness in the pre-budgetary consultation hearings. As well, we urge the Minister of Finance to enshrine the Artists' Resale Right/Droit de Suite (ARR) in Canada and to make the necessary subsequent amendments to the Federal Income Tax Act and the Copyright Act. CARFAC has developed a complete proposal for how the ARR might work best in Canada, based on the best practices established elsewhere, and in consultation with the Canadian visual arts community. This proposal, as well as an ARR FAQ are available on request.

In summery:

- The ARR Royalty does not cost the treasury money, but rather creates revenue in the form of taxable income for artists.
- The ARR will create significant income for visual artists in Canada, most of whom subsist below the poverty line.
- The ARR has will disproportionately and positively effect Indigenous artists in Canada.
- The ARR will help Canada comply with recommendations from the Truth and Reconciliation Commission as well as The United Nations Declaration on the rights of Indigenous Peoples.
- The ARR will create increased retirement security for Canada's senior artists.

Thank you for considering our concerns and suggestions.

Sincerely,

A handwritten signature in black ink, appearing to read 'Darrah Teitel', written in a cursive style.

Darrah Teitel, Director of Advocacy

CARFAC National